

108 FERC ¶ 61,241
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeene G. Kelly.

Maine Yankee Atomic Power Company

Docket No. ER04-55-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued September 16, 2004)

1. On July 9, 2004, Maine Yankee Atomic Power Company filed an offer of settlement in the above proceeding. On July 27, 2004, comments supporting the offer were filed by the Commission Trial Staff, and on July 29, 2004, comments supporting the offer were filed jointly by the Maine Public Utilities Commission and the Maine Office of Public Advocate. No other comments were filed. On August 12, 2004, the settlement judge certified the settlement to the Commission as an uncontested offer of settlement.
2. The subject settlement is in the public interest and is hereby approved. In addition, the rate schedules submitted as part of the settlement are in compliance with Order No. 614, (FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000)), and are accepted for filing as designated. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
3. This order terminates Docket No. ER04-55-000.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Acting Secretary.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in Wisconsin Power & Light Co., 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it approves a settlement that provides, in relevant part: “The standard of review for any modification not agreed to by all the Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the *Mobile Sierra* doctrine.”

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